THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO.16740 of 2007

Date:10.08.2007

Between:

K.Ganna Reddy.

...Petitioner

And

The Government of A.P. and others.

...Respondents

O R D E R:

The first respondent constituted a committee for the agriculture market at Suryapet, through orders in G.O.Ms.No.450, dated 18.11.2005, for a period of three years. The petitioner was appointed as Chairman of that committee. The sixth respondent made certain allegations as to the functioning of the market committee through his complaint, dated 04.10.2006. The same was got enquired through the Joint Director of Marketing, Warangal, third respondent herein. On the basis of the report, dated 04.05.2007, submitted by the third respondent, the first respondent issued a show cause notice, dated 27.07.2007, to the petitioner directing him to explain within 15 days as to why he shall not be removed from the office of the Chairman of the market committee. Reference was made to four allegations. The petitioner challenges the show cause notice on several grounds.

It is contended that the show cause notice is the result of non-application of mind, and in a way contrary to the findings recorded by the third respondent. It is also alleged that the proceedings are vitiated by *mala fides*.

Sri B.Vijaysen Reddy, the learned counsel for the petitioner submits that out of 21 allegations levelled by the sixth respondent against the market committee, 17 were found to be without basis and even the four mentioned in the show cause notice lack substance. He contends that the first two allegations relate to revocation of suspension of the licences of traders and such a course is very much permissible under Section 23-A of A.P. (Agricultural Produce & Livestock) Markets Act, 1966. He further contends that the decision was taken collectively by the committee and though nothing specific was attributed to the petitioner, he sought to be proceeded against.

The learned Government Pleader for Marketing and Sri M.S.Ramachander Rao, on the other hand, submit that the writ petition is not maintainable against a show cause notice and that the petitioner can put forward all his contentions in the explanation.

It is only in very rare and exceptional cases that this Court would interfere with show cause notices. Such instances include the cases where the show cause notice is issued without jurisdiction or contrary to the specific provisions of the relevant statute. Error apparent on the face of the record also may some

times constitute the basis for interference.

In the instant case, the petitioner does not plead that the first respondent is not vested with the power to issue the show cause notice. The only endeavour on the part of the petitioner is to impress upon the Court that the allegations mentioned in the show cause notice are without basis and contrary to the record. That, however, is a matter to be verified with reference to the explanation that may be submitted by the petitioner and the material on record. The plea such as the petitioner alone being proceeded against for the decisions taken by the committee or that the power of the committee to compound offences was not adverted to, needs to be specifically examined by the first respondent before any final decision is taken. The interest of the petitioner can be protected by directing that in the event of any orders, adverse to the interest being passed, enforcement thereof be deferred by ten days.

For the foregoing reasons, the writ petition is disposed of, directing that it shall be open to the petitioner to submit his explanation within ten days from today to the impugned show cause notice. The first respondent shall take, the grounds that may be urged by the petitioner, into account, before the final order is passed. It is further directed that in case any orders adverse to the interest of the petitioner are passed, they shall not come into force for a period of ten days from the date of service of the order. There shall be no order as to costs.

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10.08.2007

kdl